

VILLAGE OF COLD SPRING PLANNING BOARD
85 MAIN STREET, COLD SPRING, NEW YORK 10516
Public hearing

October 27, 2009

Atlas, LLC, 144 Main St.

Present: Chairman: Joseph Barbaro **Members:** Karen Doyle Joseph Immorlica & Arne Saari
Placito Sgro

Present for the Applicant: James Hartford, River Architects, Ray Memmel, Contractor and Mr. And Mrs. Ailes

Two changes to building are being presented:

- Portico on second floor which was copied as close as possible to original
- Enclose a porch in the back of the building

The applicant presented the following:

- A revised survey
- The return receipt requests from neighbors.
- A letter from Mayor Gallagher regarding the Village willing to sell Atlas the stoop
- A letter from Steven Smith, Fire Inspector, stating that the project will not significantly change safety of occupants in the building.

James Hartford, River Architects, stated that it was determined that 5 spaces were needed which were acquired by 106 Main St.,

The Chairman, read the letter from Mayor Gallagher – dated 10/26/09

The Chairman read the letter from Steven Smith, Fire Inspector – dated 10/26/09

P. Sgro asked for a copy of the easement regarding the purchase of the stoop and the area for drainage.

J. Immorlica commented on the letter from the Fire Inspector's comment regarding occupancy on the second floor. Mrs. Ailes stated she will not be occupying the second floor.

A. Saari commented on the drawings where the drawing showed an external elevator shaft and asked if it was still going to be installed. Mrs. Ailes stated "yes".

A. Saari asked where the applicant stood regarding the ZBA. Mr. Hartford replied that they have a public hearing for side setbacks on Thursday, November 19, 2009 there is an allowance for portico's on Main St. however, the presented portico is larger than the size allowed.

A. Saari commented on the following items (pg. 13420) and asked if the ZBA was aware of the issues:

1. lot area. 10,000 sq. ft.
2. Lot width; 50 ft
5. One side yard; 5 ft.
6. Total both side yards 10 ft
9. Each lot shall be of such shape that a rectangle 30x40 ft will fit in 50% of the lot

Mr. Hartford answered yes. He believed the ZBA was aware of it.

P. Sgro noted that you cannot inflict a non conforming use with a conforming use.

A. Saari commented on a recent preexisting condition regarding a nonconforming porch before the ZBA.

J. Barbaro polled the Board members to see where they stood regarding the conforming and nonconforming use.

P. Sgro stated he felt that the ZBA are the only ones that can make the decision regarding a non conforming use. The Planning Board cannot make a decision regarding conforming and nonconforming use.

A. Saari agreed with **P. Sgro** and added he felt the Planning Board can give them an opinion to grant the variances.

P. Sgro stated there is a conflict between the code regarding the issue of a conforming use and a nonconforming use. He explained how properties became nonconforming.

Mrs. Ailes stated that she felt she should have gone before the ZBA before a public hearing had been scheduled with the Planning Board.

Mr. Ailes Stated that the only way to conform to the code is to tear the buildings down around 144 Main St. They could have moved the paper off Main St. but chose not to, otherwise they are going to have to write stories about the process. **P. Sgro** stated that the building inspector sent the site plan to the Planning Board first. It had to come to the Planning Board. The Planning Board took the position of taking the review of the site plan even though it conflicts with a conforming use

P. Sgro moved that the Planning Board write a letter to the ZBA recommending the Planning Board suggest to the ZBA that the variances be granted. **J. Immorlica** seconded the motion. The motion was approved 5-0.

K. Doyle asked what issues are before the ZBA.

Mr. Hartford responded that there is a side-yard setback issue and the size of the portico. The ZBA did not think the others were a problem because the issues already existed.

Public Comment:

Howard Broad 142 main St. – stated he owned the building for a 10 years and had no problem supporting the Ailes regarding the portico. But they (Winfried Dohle and himself) do have problems regarding the back yard. Mr. Broad presented pictures and a site plan and noted that the extension goes beyond the property line and part of the eave goes into his property. He feels any building is an intrusion of his property. Mr. Broad stated “The current decks on neighboring properties were built illegally. He went to the building inspector regarding the decks and the building inspector at the time did

nothing regarding his concerns.” He will not allow the Ailes to use his property to access their property. He does not know how it will be enclosed without putting in a foundation. “

Mr. Broad presented pictures showing how the deck issue evolved and pointed out the way the roof is pitched it drains into their yard there is no provision for drainage. That elevator shaft goes up the side of their building causing an intrusion to his property.

Mr. Broad stated the back yards are graded about 4 ½ feet down from street level. The back yard will look like a shoe box.

Mr. Ailes. Stated Does that mean Mr. Broad and Mr. Dohle are saying we cannot close the deck area. The elevator is for handicap purpose. They are requesting permission to repair their building

Winfried Dohle stated to the applicant “You knew when you bought the building what size it was. they did not intend to enlarge the building. There are other building on Main St. that are bigger than the building the applicant purchased and that were also for sale at that time. We bought a building that we were comfortable with. By closing in the back yard and have it look like a shoe box is a concern.”

Mr. Ailes state he would like to enclose the porch that is existing. When you buy a house he believes he should be able to fix up the interior.

Ray Memmel stated he talked to other contractors and all work can be done by bringing all material through the building, The neighbors property does not need to be accessed at all. Mr. Memmel stated “The main concern of Mr. board was for privacy by limiting the deck and no water will drain on his property what so ever. The elevator roof will have a gutter. Everything possible was done to give him his privacy.”

Winfried Dohle asked the applicants How will you be able to access the second floor? it seems to be below the floor line . Mr. Hartford pointed to the plan to explain

Winfried Dohle stated He would like to see a drawing of the plan Mr. Hartford explained the drawing to him. He was satisfied with his answer.

Mr. Broad stated he will lose his view and his property value will diminish because of the construction of the elevator. He stated he has to think of his future and he has to look at the quality of life issue.

Mr. Ray Memmel stated “We took this into consideration the building of the elevator shaft, it was to give him more privacy.” Mr. Memmel presented pictures showing the 6 ft. elevator shaft and explained that it will not obstruct the view. Mr. Hartford then explained where the shaft would be by pointing to pictures.

Mr. Broad asked if the elevator would be noisy. RAY Memmel answered “no”.

There were no more comments from the public

J. Immorlica stated they should keep the public hearing open until the ZBA makes a decision. Plus the definite sale of the stoop area from the Village to the applicant is not yet finalized.

P. Sgro agrees with J. Immorlica until all paper work is in and the package is complete. It is unusual to keep the public hearing open until the ZBA makes a decision. The Planning Board members have to come up with the right decision.

K. Doyle asked if there is a binder or anything binding the purchase of the stoop area. Mr. Ailes stated it was all done in good faith.

J. Barbaro asked Mr. Phil Heffernan if he had any comments. Mr. Heffernan stated he is not directly impacted.

Mr. Hartford question what are we hear for? His opinion is they are here for a change of use.

J. Barbaro stated it is based on the sale of the stoop area and the Planning Board does not want to approve anything without the ZBA decision.

K. Doyle noted that the meeting was also to listen to public comment

J. Immorlica noted that they expedited the project for the applicant. He also noted the sale of the land is not final and the ZBA still has to make a decision. The planning board will proceed when the sale of the land is complete and the ZBA has made their decision.

A. Saari agreed with the other board members.

Mr. Ailes assumed the board is referring to the sale of the stoop area. And he believes the closing of the deck and he needs to make sure that he has enough space to publish the paper.

J. Barbaro noted that there is not enough information to close the public hearing. The law states the planning Board has 62 days once the public hearing is closed to make a decision the Ailes asked for clarification regarding the continued public hearing.

J. Immorlica suggested setting a date for the public hearing to continue after the November 19, 2009 ZBA public hearing date. The date was scheduled for Tuesday, November 24, 2009 at 7:30 pm.

J. Immorlica moved to adjourn the public hearing. **A. Saari** seconded the motion. The motion was approved 5-0. The meeting was adjourned at 9:40 pm.

J. Barbaro, Chairman of the Planning Board

Date